

## Message Text

UNCLASSIFIED

PAGE 01 COPENH 02405 251829Z  
ACTION L-03

INFO OCT-01 EUR-12 ISO-00 EB-08 TRSE-00 SCS-03 PM-04  
DODE-00 /031 W

-----260133Z 111579 /13

R 251617Z APR 77  
FM AMEMBASSY COPENHAGEN  
TO SECSTATE WASHDC 4335  
INFO AMEMBASSY BRUSSELS  
AMEMBASSY THE HAGUE  
AMEMBASSY OSLO

UNCLAS COPENHAGEN 2405

E.O. 11652: N/A  
TAGS: EFIN, MASS, DA  
SUBJECT: F-16 AND TAXATION

1. MR. WARREN DE CHUTKOWSKI, PROGRAM MANAGER OF KAISER AEROSPACE AND ELECTRONICS, PALO ALTO, CALIFORNIA, ASKED US RECENTLY WHETHER OR NOT TECHNICIANS OF HIS FIRM, A US SUBCONTRACTOR IN THE F-16 PROGRAM, COULD BE EXEMPTED FROM DANISH INCOME TAXES WHILE THEY ARE WORKING HERE WITH A DANISH F-16 SUBCONTRACTOR.

2. OUR REPLY TO MR. DE CHUTKOWSKI WAS THAT, TO THE BEST OF OUR KNOWLEDGE, THEY COULD NOT. WE STRESSED, HOWEVER, THAT THIS WAS ONLY OUR OPINION AND THAT WE WOULD ASK WASHINGTON TO LOOK INTO THE MATTER.

3. OUR OPINION IS BASED ON THE FOLLOWING:

A. AS WE READ THE APRIL 1952 UNDERSTANDING BETWEEN DENMARK AND THE US (EXCHANGE OF NOTED APRIL 7 AND 9, 1952 IN COPENHAGEN), TAX EXEMPTIONS ARE GRANTED ONLY IN THOSE CASES STRICTLY CONSTRUED AS "FOREIGN MILITARY SALES". THE F-16 PROGRAM IS TECHNICALLY A JOINT CO-OPERATION PROJECT AND NOT A FMS SALE.

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B. THE ONLY CASE WE KNOW OF WHERE THE DANES HAVE EXEMPTED A TECHNICIAN FROM INCOMES TAXES WAS IN CONNECTION WITH PURCHASE OF SEA SPARROW, A NATO PROJECT. IN THIS INSTANCE THE DANES EXEMPTED A RAYTHEONS TECHNICIAN AFTER THE US DOD MADE A REQUEST TO THE DANISH MOD. THE DANES HAVE SAID THAT THIS CASE IF

UNIQUE AND NOT PRECEDENT SETTING.

C. THE US AIR FORCE LEGAL COUNSEL TO THE F-16 PROGRAM IN BRUSSELS GAVE US AN INFORMAL OPINION THAT KAISER HAD LITTLE OR NO LEGAL GROUNDS FOR EXPECTING AN EXEMPTION. KAISER, HE SAID, IS ESSENTIALLY A PRIVATE SUBCONTRACTOR DEALING ON A PRIVATE BASIS WITH ANOTHER SUBCONTRACTOR. THERE IS NO QUESTION OF RECIPROCITY, HE SAID, INASMUCH AS COMPARABLE DANES IN THE US ARE NOT EXEMPT FROM US TAXES.

D. MINISTRY OF DEFENSE OFFICIALS WHO HAVE HAD CONSIDERABLE PAST EXPERIENCE WITH THIS QUESTION ADVISE US THAT WE WOULD NOT RPT NOT BE SUCCESSFUL IN BROACHING THIS QUESTION WITH THE DANISH TAX AUTHORITIES.

4. THE CRUX OF THE MATTER APPEARS TO BE WHETHER OR NOT THE UNDERSTANDING OF APRIL 1952 (SEE PARA 3.A. ABOVE) APPLIES TO F-16 CONTRACTORS AND SUBCONTRACTORS. WE THEREFORE REQUEST THAT THE DEPARTMENT EXAMINE THE MATTER TO SEE WHETHER OR NOT THERE ARE GROUNDS FOR PURSUING IT FURTHER WITH DANISH AUTHORITIES.

5. AN EARLY ANSWER WOULD BE USEFUL, INASMUCH AS KAISER WITHIN THE NEXT TWO OR THREE WEEKS MUST MAKE ITS PLANS REGARDING TECHNICIANS (I.E., IN A WAY TO KEEP THEIR COSTS TO A MINIMUM). IF TAX EXEMPTIONS ARE NOT POSSIBLE, THEY WILL EXPLORE OTHER MEANS, SUCH AS ROTATING TECHNICIANS BEFORE TAX RESPON-  
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SIBILITIES TAKE AFFECT. WE ALSO EXPECT THAT SIMILAR ENQUIRIES WILL BE MADE BY OTHER US COMPANIES WITH F-16 CO-PRODUCING RESPONSIBILITIES IN DENMARK.  
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## Message Attributes

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**TAGS:** EFIN, MASS, DA, KAISER AEROSPACE & ELECTRONICS, (DE CHUTKOWSKI, WARREN)  
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Margaret P. Grafeld  
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